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Amendment
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balloon.

While applicant does disclose spraying a radiopaque material onto the balloon – applicant also discloses using radiopaque metal powder when molding the balloon to create radiopaque regions (Page 4, lines 22-23 and claim 3 as originally filed). Therefore, there is ample support for the prior amendment to claim 1 which requires "the balloon being made of a material, the material being made of at least one radiopaque portion". Applicant requests that the §112 rejection to claims 1, 3-5 and 7 be withdrawn in view of the preceding comments.

§102(b) Rejection

The prior amendment was made based on the Examiner's continuation sheet to box No. 5 of the Advisory Action mailed 4/18/2003 – which recognizes that Fischell does not teach a balloon made of a radiopaque material. As applicant believes that there is ample support for the amendment and that therefore the §112 rejection to claims 1, 3-5 and 7 is overcome, applicant also believes that claims 1, and 3-5 are not anticipated by Fischell. As the Examiner has recognized in the past, Fischell does not teach a balloon made of radiopaque material, but instead the separate marker bands or tubes which fit around the balloon may be radiopaque. The marker bands of Fischell are not the balloon, but instead are arranged coaxially around the balloon. See for example tubes 14P' and 14D' in Figure 4. The elastic tubes referred to at Col.2 lines 41-47 are not the balloon, but instead are elastic marker bands, such as shown in Figure 4. A disclosure of using metal powder to make an elastic tube radiopaque, which is then arranged around a balloon, does not anticipate a claim which requires that the **balloon material itself** be made so portions of the balloon material are itself radiopaque. Applicant requests that the §102 rejection to claims 1, and 3-5 be withdrawn in view of the preceding comments.

§103 Rejection

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Because the primary reference (Fischell) does not disclose a radiopaque balloon and paragraph [0078] of Cioanta is directed to radiopaque markers and not the balloon – the combination of these two reference totally fails to meet claim 7. The combination of these two reference suggests using a radiopaque ink applied to the marker bands of Fischell. Applicant requests that the §102 rejection to claims 1, and 3-5 be withdrawn in view of the preceding comments.

Conclusion

The Examiner has carried forward the same rejections even though claim 1 has been amended to require structure which the Examiner has recognized is not taught in Fischell. The rejections should be withdrawn and claim 1, 3-5 and 7 should be allowed.

Respectfully submitted,

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